

MORTGAGE FORECLOSURE PROCESS¹

1 REFERRAL FROM CLIENT AGENCY

- 1.1 Review CCLR provided by client agency.
- 1.2 Immediately prepare acknowledgment, deficiency or declination letter to agency. Reasons for declination:
 - 1.2.1 CCLR not provided.
 - 1.2.2 Property address not provided.
 - 1.2.3 Referral not accompanied by summary or supporting documentation of actions already taken.
 - 1.2.4 CCLR inadequate for any other reason.
 - 1.2.5 Supporting documentation deficient (no Certificate of Indebtedness, no mortgage documents).

2 PREJUDGMENT DEMAND

Same as Attachment 6 at Step 2.

3 OBTAIN TITLE REPORT

- 3.1 Send letter to title company requesting foreclosure title report.
- 3.2 Confirm metes and bounds property description.
- 3.3 Identify necessary parties defendant.

4 RESPONSE FROM DEBTOR PRIOR TO FORECLOSURE SALE

- 4.1 Unless the debtor agrees to pay the full amount of the debt, suit shall be filed.

¹ Unlike the Federal debt collection process, Federal mortgages are not foreclosed under uniform procedures. The process set forth in this Attachment is meant to be illustrative only. The procedures may vary from one jurisdiction to another.

- 4.2 If the debtor agrees to pay all arrearages and fees, the agency shall be contacted to determine if reinstatement of the mortgage is acceptable.
- 4.3 If the title report shows few or no liens, a deed in lieu of foreclosure shall be considered.

5 FILING SUIT

- 5.1 If the debtor has not responded to the demand letter or met the requirements under Step 4, a complaint shall be filed.
- 5.2 A notice of pendency shall be filed in the appropriate State office.
- 5.3 An updated title search shall be obtained.
- 5.4 The complaint and the notice of pendency shall be amended if additional parties in interest are identified in the updated title report.

6 SERVICE OF SUMMONS AND COMPLAINT BY MAIL

Same as Attachment 6 at Step 5 except that in addition to the debtor all persons with an interest in the property and identified in the title report must also be served.

7 ACKNOWLEDGMENT OF SERVICE BY MAIL RETURNED BY DEFENDANTS

Same as Attachment 6 at Step 6 except that acknowledgments must be obtained from multiple defendants and deadline dates must be established for each defendant.

8 SERVICE OF SUMMONS AND COMPLAINT BY PERSONAL DELIVERY

Same as Attachment 6 at Step 7 except that deadline dates must be established for multiple defendants.

9 DEFENDANT CANNOT BE LOCATED

- 9.1 File notice of motion to serve absent defendant by publication.
- 9.2 Send court approved notice to newspaper for publication.
- 9.3 Review publication proofs.
- 9.4 Obtain affidavit of publication.

10 DECEASED/INCOMPETENT DEFENDANT

- 10.1 Apply for appointment of a guardian ad litem in appropriate court.
- 10.2 Serve guardian ad litem.

11 COMPLETION OF SERVICE

Same as Attachment 6 at Step 8.

12 DEFENDANT FILES AN ANSWER TO COMPLAINT

Same as Attachment 6 at Step 9 except that multiple answers may be filed.

13 OBTAIN JUDGMENT OF FORECLOSURE AND SALE

- 13.1 In addition to obtaining a judgment against any defendant who answers the complaint, a judgment of foreclosure and sale shall be obtained foreclosing the interests of all defendants.
- 13.2 The judgment of foreclosure and sale shall authorize the sale of the mortgaged property and set forth the terms and conditions of the sale of the property.

14 CONDUCT FORECLOSURE SALE

- 14.1 Prepare notice of sale.
- 14.2 Send notice of sale to newspaper for publication.
- 14.3 Notify agency of sale and request bidding instructions.
- 14.4 Review proofs of notice of sale.
- 14.5 Attend sale with United States Marshal or other court-appointed seller.
- 14.6 Obtain affidavits of publication.

15 CLOSE SALE

- 15.1 Prepare report of sale for execution by United States Marshal or other court-appointed seller.
- 15.2 File notice of motion for confirmation of sale.
- 15.3 Prepare deed for execution by United States Marshal or other court-appointed seller.
- 15.4 If a third party is the successful bidder at sale, schedule formal closing with purchaser and exchange deed for payment of cash deposit and balance due at closing.

15.5 If agency is successful bidder, arrange for recording of deed in appropriate State office.

16 THIRD-PARTY BIDDER DEFAULTS ON CLOSING

- 16.1 Forfeit cash deposit, if allowed by law.
- 16.2 Schedule new sale.

17 OBTAIN TITLE INSURANCE POLICY (IF REQUESTED BY AGENCY)

If the agency is the successful bidder at the foreclosure sale and requests title insurance, obtain owner's policy from title company.

18 EVICTION (IF REQUESTED BY AGENCY)

- 18.1 Send notice to occupant to leave premises.
- 18.2 File writ of possession with appropriate court.
- 18.3 Notify United States Marshal or Sheriff of proceeding.
- 18.4 Serve occupant.
- 18.5 Notify agency when premises vacant.

19 DEFICIENCY JUDGMENT (IF REQUESTED BY AGENCY AND AUTHORIZED BY COTR)

- 19.1 Obtain appraisal if required.
- 19.2 Use process set out in Attachment 6.

20 DEED IN LIEU OF FORECLOSURE

- 20.1 Obtain agency authorization to accept deed in lieu.
- 20.2 Obtain estoppel affidavits.
- 20.3 Prepare deed and bill of sale.
- 20.4 Obtain lien affidavits, releases of liens as necessary.
- 20.5 Record deed.